

# HOUSE BILL REPORT

## HB 1083

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**As Reported by House Committee On:**  
Natural Resources, Ecology & Parks

**Title:** An act relating to regulatory reform of the hydraulic project approval program.

**Brief Description:** Improving the efficiency and predictability of the hydraulic project approval program.

**Sponsors:** Representatives Blake, Buck, Wallace, DeBolt, Grant, Hinkle, Takko, Flannigan, Armstrong, Kristiansen, B. Sullivan, Newhouse, Pettigrew, Quall, Linville, Eickmeyer, Kessler, Chase and Pearson.

**Brief History:**

**Committee Activity:**

Natural Resources, Ecology & Parks: 3/1/05 [DPS].

**Brief Summary of Substitute Bill**

- Establishes legislative intent to clarify the Department of Fish and Wildlife's authority under the Hydraulics Code and streamline the hydraulic project approval process to improve consistency and predictability while ensuring the protection of fish life.

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### HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake, DeBolt, Dickerson, Eickmeyer, Orcutt and Williams.

**Minority Report:** Do not pass. Signed by 1 member: Representative Hunt.

**Staff:** Jeff Olsen (786-7157).

**Background:**

A person must obtain a hydraulic project approval (HPA) for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state before beginning construction. The HPA permits are issued by the Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life. The bed of state waters is defined in the hydraulic code as land below the ordinary high water line of state waters.

The HPA decisions may be appealed to the Director of the WDFW under the provisions of the Administrative Procedure Act. The appeal may be heard by the Director or an administrative law judge, but final decisions on the appeal are made by the Director. Certain projects related to agricultural irrigation or off-site mitigation are heard by the Hydraulic Appeals Board.

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**Summary of Substitute Bill:**

Legislative intent is established to clarify the Department of Fish and Wildlife's (WDFW) authority under the Hydraulics Code and streamline the hydraulic project approval process to improve consistency and predictability while ensuring the protection of fish life.

**Substitute Bill Compared to Original Bill:**

The substitute establishes legislative intent to clarify the WDFW's authority under the Hydraulics Code and streamline the HPA process to improve consistency and predictability while ensuring the protection of fish life. The substitute removes requirements for the WDFW to develop general permits, renewable five year permits, and to develop procedures to ensure that HPA conditions are applied consistently. The substitute removes provisions allowing local governments to apply for certification of certain regulations as equivalent to HPAs, and removes the ability for project applicants to apply for review of certain permits as equivalent to the HPA. The substitute removes the expedited dispute resolution process to review HPA permit decisions, and removes the change to the jurisdiction of the HPA permit.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support of original bill) The bill implements many of the issues identified by the HPA Task Force that met in 2002 including: equivalency, efficiency and consistency of applying the HPA; an expedited dispute resolution process; general permits and five year renewable permits; and, clarifying that the HPA only applies to work within the high water mark. Stakeholders are continuing to meet to discuss jurisdiction of the HPA and civil authorities, and hope to reach consensus. The original bill would improve the HPA program, but the proposed substitute does not address jurisdiction. The bill should be moved so that stakeholders can continue to work towards consensus.

(With concerns on original bill) The Department of Ecology (DOE) views the HPA as a complement to the DOE's permits, not equivalent. The DOE relies on WDFW's fish habitat expertise.

**Testimony Against:** (Opposed to original bill) The bill does not reflect the recommendations from the HPA Task Force that met in 2002. Equivalency and jurisdiction were not included in

the HPA Task Force recommendations. The language on general permits and five year renewable permits is too broad, and the bill is far from consensus. Details have not been worked out on many of the policy areas, but the bill should be moved so that stakeholders can continue to work towards consensus. The WDFW has been working with stakeholders and would like to put in statute many improvements made by the HPA program since 2002.

**Persons Testifying:** (In support of original bill) Representative Blake, prime sponsor; Robyn Meenach, Hydraulic Project Approval Taskforce and Washington Farm Bureau; Eric Johnson, Washington Public Ports Association; Tim Layton, Maritime Environmental Coalition and Northwest Marine Trade Association; John Stuhlmiller, Farm Bureau; and Kristen Sawin, Association of Washington Businesses.

(With concerns on original bill) Melody Selby, Department of Ecology.

(Opposed to original bill) Greg Hueckel, Department of Fish and Wildlife; Bruce Wishart, People for Puget Sound; and Heath Packard, Audubon Society.

**Persons Signed In To Testify But Not Testifying:** None.